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In re Application of: HÖSSEL et al.

Serial No.: 09/771,595

Filing Date: January 30, 2001

Attachments: Reply to Notification of Non-Compliant Appeal Brief

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 27 2006

IN RE APPLICATION

ATTY. DOCKET: PP51186

OF: HÖSSEL ET AL.

CONFIRMATION No.: 8957

SERIAL No. 09/771,595

GROUP ART UNIT: 1616

FILED: JANUARY 30, 2001

EXAMINER: MARINA LAMM

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REPLY TONOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 C.F.R. §41.37)

Sir:

In reply to the Notification of Non-Compliant Appeal Brief of January 18, 2006, it is respectfully requested that the following remarks be considered:

The Notification asserts that appellants' Appeal Brief is non-compliant because "The brief does not contain the items required under 35 CFR 41.37(c), or the items are not under the proper heading or in the proper order" adding as an explanation that the brief does not contain an Evidence Appendix and a Related Proceedings Appendix.

Serial No. 09/771,595

HÖSSEL et al.

PF 0000051186

It is respectfully noted that Appellants included in their Brief a Table of Contents *inter alia* indicating:<sup>1)</sup>

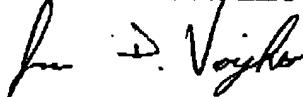
Evidence Appendix -none-

Related Proceedings Appendix -none-

In accordance with the U.S. PTO's explanations pertaining to the requirements of 37 C.F.R. §41.37 "a brief containing a Table of Contents indicating that no evidence appendix is part of the brief or that no related proceedings appendix is part of the brief would be acceptable under the Rule since it would clearly indicate that no evidence is relied upon by the appellant in the appeal or that no related proceedings having decisions rendered by a court or the Board exist."<sup>2)</sup> In light of the U.S. PTO's explanations, appellants' brief is deemed to fully comply with the provisions of 37 C.F.R. §41.37, and the Notification is deemed to have been issued in error. Early action is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 14.1437. Please credit any excess fees to such deposit account.

Respectfully submitted,  
NOVAK DRUCE DELUCA & QUIGG



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1) Cf. page 1 of appellants' Brief.

2) Cf. Federal Register Vol. 69, No 155, page 499978, paragraph preceding Comment 61.